

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION**

SPACE EXPLORATION  
TECHNOLOGIES CORP.,

Plaintiff,

v.

NATIONAL LABOR RELATIONS  
BOARD, *et al.*,

Defendants.

Case No. 24-cv-0001

**DEFENDANTS' REPLY IN SUPPORT OF MOTION TO SEAL AND TO FILE  
REDACTED PUBLIC COPY**

1. While invoking the Fifth Circuit's "especially strong position that 'sealing information placed in the judicial record' is 'heavily disfavored,'"<sup>1</sup> SpaceX does not actually oppose redacting the names of the four, currently anonymous Terminated Employees, since Space X acknowledges that these names are "utterly irrelevant to any issue before this Court."<sup>2</sup> Because SpaceX does not oppose the Defendants' Motion to Seal (Doc. No. 35),<sup>3</sup> this Court should resolve that motion after it decides the Terminated Employees' (formerly Proposed Intervenor's) Motion to Redact Exhibit (Doc. No. 46).

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<sup>1</sup> Doc. No. 68 at 2 (quoting *June Med. Servs., L.L.C. v. Phillips*, 22 F.4th 512, 519 (5th Cir. 2022) (internal citations omitted)).

<sup>2</sup> Doc. No. 68 at 5. Although it is possible that these names could later become relevant to the instant proceeding, Defendants leave it to the Terminated Employees as to whether they wish to take steps later to protect those four individuals' names.

<sup>3</sup> *Id.*

2. SpaceX asserts, and Defendants agree, that “the public has an interest in transparent court proceedings that is independent of the parties’ interests.”<sup>4</sup> And Defendants also agree that granting a motion to seal requires judges to undertake a robust inquiry “balancing the public’s common law right of access against the interests favoring nondisclosure.”<sup>5</sup> Defendants merely ask that this Court decide its unopposed Motion to Seal based upon its determination as to whether the Terminated Employees have made out the necessary showing in support of their Motion to Redact Exhibit.

3. Defendants’ motion is consistent with its Freedom of Information Act (FOIA) policies. Defendants’ FOIA Manual cited by SpaceX<sup>6</sup> is marked “Under Revision”; moreover, the manual’s direction to release unfair labor complaints without redactions has been superseded by General Counsel Memorandum 15-07. That memorandum explained that certain “formal documents,” including unfair-labor-practice complaints, should be redacted to protect personal privacy prior to the opening of an unfair labor practice hearing.<sup>7</sup> Once a hearing opens, such names are generally released, absent an administrative law judge’s issuance of a protective order.<sup>8</sup>

## CONCLUSION

Because the Motion to Seal and to File a Redacted Public Copy is unopposed, we respectfully request that should the Court grant the Terminated Employees’ Motion to Redact

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<sup>4</sup> Doc. 68 at 2 (quoting *June Med. Servs., LLC v. Phillips*, 22 F.4th 512, 519 (5th Cir. 2022)).

<sup>5</sup> *Id.* (quoting *Binh Hoa Le v. Exeter Fin. Corp.*, 990 F.3d 410, 419 (5th Cir. 2021)).

<sup>6</sup> *Id.* at 3 n.3. See also NLRA FOIA Manual, available at [https://www.nlr.gov/sites/default/files/attachments/pages/node-3614/foia-manual\\_0.pdf](https://www.nlr.gov/sites/default/files/attachments/pages/node-3614/foia-manual_0.pdf).

<sup>7</sup> General Counsel Memorandum 15-07, available at <https://apps.nlr.gov/link/document.aspx/09031d4581d69633>.

<sup>8</sup> See *ALJ Benchbook* 8-600, available at <https://www.nlr.gov/sites/default/files/attachments/pages/node-174/april-2023-bench-book.pdf>.

Exhibit (Doc. No. 46), it should grant Defendants' motion as well.

Respectfully submitted,

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NATIONAL LABOR RELATIONS BOARD  
*Contempt, Compliance, and*  
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Dated this 12th day of February, 2024.

### CERTIFICATE OF SERVICE

I hereby certify that on February 12, 2024, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will automatically send notification of the filing to all counsel of record.

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Dated this 12th day of February, 2024.